



S P E E C H

OF

HON. WM. W. VALK, OF NEW YORK,

ON THE

RESOLUTION REPORTED BY THE COMMITTEE OF ELECTIONS IN THE CON-
TESTED-ELECTION CASE FROM KANSAS TERRITORY.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, MARCH 17, 1856.

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KANSAS CONTESTED ELECTION.

Mr. VALK said:

Mr. SPEAKER: The subject of the Kansas contested election has been for some time prominently before this House, and it has elicited from various gentlemen such expressions of opinion and decision as to them has doubtless seemed proper and conclusive upon the merits of the case. I have given to the debate thus far a very close attention, and have endeavored, in all possible calmness, and without undue influences, to reach the goal of truth. The process has not been unattended with difficulty, nor has the task been easy; for in many instances bold assumption has usurped the place of fact, and many wishes have fathered thoughts which, but for the undue zeal of over ardent temperaments, would never have become words in mockery of justice. I am, sir, but a child in legislative experience; nor am I gifted with the power of eloquence, to fix the judgment or control the will; but I can speak the language of my own convictions, and

"nothing extenuate,
Nor set down aught in malice."

In my opinions, sir, I am in conflict, I presume, with nearly all my honorable colleagues, and this misfortune, if it be one, has attended me since the commencement of our present session; but much as I regret differences, I am under no anxiety to reconcile them, or to soften down asperities by any concession to the morbid prejudices or conceits of any man. I profess, sir, to be keenly sensible of my obligations and responsibilities to the whole country, and entertain a very decided idea, that I occupy the position of a national Representative, bound to regard the States of this Union as equals, and the Territories as the common property of them all. I am here as a citizen of the United States, and in that capacity I feel the pressure of my allegiance to be due the whole; for in every one of them I am guaranteed the same rights, immunities, and privileges.

We know, sir, that soon after the appointment of the standing committees of the House, a majority of the Committee of Elections presented

here a resolution by the honorable gentleman from Pennsylvania, [Mr. HICKMAN.] It was in these words:

"Resolved, That in the Kansas contested-election case the Committee of Elections be, and are hereby, empowered to send for persons and papers."

It is this resolution, sir, which has been debated, and upon the issue presented in it of sending to a far distant Territory "for persons and papers," that the discussion has arisen as to the questions raised in admitting to his seat here General J. W. Whitfield, as the Delegate from Kansas. These questions embrace the right of General Whitfield to his position by virtue of his election, and the validity of the Territorial Legislature by which the law was passed under which he was elected. To determine these points, a majority of the committee modestly asked for very extraordinary power, and have vigorously defended the propriety and necessity of proceeding in their determination. It was not sufficient that General Whitfield had *prima facie* evidence of his right and title to a seat upon this floor, nor was it regarded as of any importance that the Legislature of Kansas had prescribed the time and mode of holding the election. Governor Reeder, the newspapers, and not a few modern Guillivers, had raised the cry of fraud. The Legislature was a fraud; its acts were consequently void, because passed by an "assembly of usurpers;" and General Whitfield was but the creature of "bowie-knives and border ruffians."

The honorable gentleman from Ohio, [Mr. BINGHAM,] who addressed the House on the 6th instant, does not believe that the power of the House can be questioned in its authority to give the committee all they ask for. He regards the whole matter as narrowed down to the inquiry, whether a case has been made out which authorizes the investigation demanded, and whether "sending for persons and papers" is the best mode of conducting the investigation. Is it, or is it not? that is the "entire question" in all "its length and breadth." It is so fixed by the honorable gentleman from Ohio, and he makes out

the "case" without any difficulty or inconvenience whatever. With a facility of belief that surpasses the credulity of ordinary men, the conclusion has long since been reached, that the Kansas Legislature was a "fraud," and that Whitfield is but the lesser "humbug" of the two.

In the remarks which I purpose making as an answer to the assumptions of those gentlemen who have expressed their opinions adverse to the sitting Delegate, I do not intend to confine myself wholly to one person, though I am free to say, that as a reply, I prefer meeting the gentleman from Ohio; and to his argument, if such it can be called, I oppose not only the convictions of my own mind, but the stern array of facts, as stubborn in their character and as forcible in their illustration as any that have been put forth by the sympathizers with, and opponents of, the so-called "wrongs and outrages" in the Territory of Kansas.

How comes it, sir, that this Kansas contested-election case is here at all? Upon what testimony (for I will not call it evidence) are we now summing up the merits of either Whitfield or Reeder, and upon what "*certiorari*" is the dispute brought into this Representative Hall? It is not upon the petition of the people of that distant Territory. It is not upon the complaint of their local legislative body. It is not upon anything duly authenticated and solemnly presented that a majority of the Committee of Elections has decided to come before this House, and ask for power to send two thousand miles for persons and papers. It is not upon any sworn document or upon the majesty of an oath that we are asked for this extraordinary grant, but it is upon the unsupported and unqualified statements of ex-Governor Reeder alone, who presents to this body a memorial of his misfortunes and griefs, and prays us to unseat General Whitfield, and put him (Reeder) in the vacant place. Sir, since the organic law was given to Kansas, and she became thus subject to her Territorial Legislature, the bitter waters of strife have not ceased to flow within her borders, and in every corner of this land has there been kindled the watch-fires of a zealous fanaticism. In its wisdom Congress gave the actual residents of the Territory the power to make their own laws and to regulate their own domestic affairs. But from the passage of the Kansas-Nebraska bill and the repeal of the Missouri restriction, there has been heard from one end of the non-slaveholding States to the other, the dismal howl and wailing of the especial guardians of freedom, lest by any possibility slaveholders might go into Kansas, and the Territory thus become in time a slaveholding State. This key explains many mysteries, and points out the *animus* of all the agony that has been sent forth in newspapers and pamphlets all over the country, as well as on this floor in speeches void of sound argument, but full of declamation.

I have said that upon no other testimony than that furnished in the memorial of A. H. Reeder does a majority of the Committee of Elections come into this House and ask for a grant of unusual power. This memorial was drawn up

in this city, and bears date the 12th of February, 1856. It does not come from the people of the Territory, nor is there any evidence that they sanctioned it in any manner. It is simply Reeder complaining of Whitfield's election, and claiming to be entitled to represent the Territory of Kansas in this Congress in Whitfield's place. It assumes to speak for the "qualified voters of Kansas," and to be based upon information and belief as to the matters and things therein set forth. It is Reeder pleading in his own behalf, and telling this House a dismal tale of Whitfield's "pretenses," and his own justification.

Upon the presentation here of this memorial by the honorable gentleman from Pennsylvania, [Mr. FLORENCE,] he moved his commitment to the Committee of Elections, and there it went for examination. There is not a word in the memorial indicating any desire on the part of Reeder that "persons and papers" should be sent for. He tells his story, and that is the whole of it. Now, there is a maxim familiar to us all, which says, there is right and justice in "*hearing the other side*." Reeder's statements may be true, though they are not made under oath; but what does Whitfield answer? Nothing to the memorial, for that is addressed to the House, but to the "notice served" upon him on the 16th October, 1855, by Reeder, informing him of his purpose to "contest his right to a seat in the next Congress as Delegate of the Territory of Kansas." Whitfield did reply on the 17th of the same month, and it is a reply, in my judgment, sir, upon the very face of which there is stamped the seal of truth and the evidence of facts as solid as they are convincing.

Well, sir, we do not know what was said or done in committee, or what documents or papers they had before them, upon which to form a proper and just conclusion. Many gentlemen believed, and the belief has become verified, that they (the majority) would report as they have done in asking "for power to send for persons and papers." Such a result was anticipated when the "case" was referred to them, and it is now before us as the subject of discussion. To the argument of the gentleman from Ohio, it is my purpose to reply more specifically than to those who have preceded him; and by the line he has marked out for himself I shall endeavor to follow.

No one doubts that "the fact is apparent" that either Reeder or Whitfield is here "in violation of the organic law of Kansas Territory." It is not necessary that the credulity of any one should be taxed upon a point so plain, for it is, as the gentleman says, "self-evident." It is gratifying to know that the Territory has an organic law, and that under that law one or the other of the Delegates is the true one, and was elected as the law prescribed. The question upon this issue is, who is the man, Reeder or Whitfield? Who was elected in conformity to the organic law? Be it either, one of them is assuredly here as a violator of that law, and has consequently no show of evidence that he is the rightful claimant of a seat upon this floor. By the organic law of the Territory, the mode of choosing a Delegate to Con-

gress is set forth, and in conformity to the legislative enactments of the Territory the election was held on the first day of October, 1855. No one but General Whitfield was a candidate, and he was consequently declared duly elected, and bears with him the certificate of Governor Shannon. Nine days after, and *in open violation of all law*, another election is held at a different place; and by virtue of this pretended election is it that ex-Governor Reeder presents himself here as of right the Delegate. He brings no evidence of his election, nor does he claim to be here at all in conformity to the organic law; but he presents himself as a law-abiding citizen and an injured man. He tells us that the law under which Whitfield was elected was null and void, because the Legislative Assembly that passed it was itself an illegal body, and was not elected by the *bona fide* citizens and residents of the Territory. It has been called the creature of "fraud and violence—a band of usurpers," the offspring of a Missouri mob, and the fruit of border-ruffianism. And the majority of the Committee of Elections have now concluded to ask this House for "power to send for persons and papers," upon the bare memorial of a single man—not to ascertain whether Whitfield was duly elected, but to prove by *oral* testimony that the Kansas Legislature was a barefaced and gigantic cheat.

Nobody does dispute the fact, that two elections were held in Kansas last year for a territorial Delegate, or that one of these was in direct conflict with the territorial law. The right existing under the organic law to elect but one Delegate, with the time and place set forth, it follows that a second election, at another time and place, must be fraudulent. By statute, Whitfield was duly chosen on the 1st of October. Upon his own motion, Reeder asserts that he was chosen on the 9th, and without any regard to law whatever. There can be no controversy, then, as to *who* comes here "by authority," but we are to question the validity of that authority, and to test it, by assenting to the very bold and extraordinary requisition to send for persons and papers. The Territorial Legislature are charged as a "band of usurpers," and all their laws denounced as invalid. But by whom is this charge made? It does not come from the *people* of Kansas, or from any authorized body in their behalf, but it comes from their former Governor—from him who had sanctioned and given existence to that very Legislature and vitality to their laws. It comes from him who was the sole judge of the legality of each member's election, and who recognized the legislative body as unquestionably lawful by addressing to it formal executive communications. Well has it been said, sir, by a distinguished Senator in the other end of the Capitol, that Governor Reeder went to Kansas "under the authority of a law of Congress regularly constituting a territorial government." He was sent there to be its Governor, and to carry out *every* provision of that law, just as though the Missouri line had never been repealed. He received his commission as a tenant under a landlord, and had no right to dispute his landlord's title. He was placed

there as a sentinel; but what was his course? He first called the Legislature together at Pawnee City. It was a remote town *site*, for there was no town there; hence the inference is irresistible, that from his interest as part owner of the locality, he desired to make it the temporary seat of government, and thus call for an expenditure of the public money which would be a benefit to him in his speculative arrangements. There were no houses or even *rooms* in which the Legislature could properly meet. Even the *necessaries* of life, to say nothing of its comforts, were almost wholly wanting. Under such circumstances, what did the legislative body do? They adjourned to a more suitable and convenient place, where the wants of its members could be better supplied. Governor Reeder refused to sanction the adjournment, and vetoed the very first bill passed by the Legislature at the Shawnee Mission. He refused to maintain the authority conferred on him, and being where he was under the sanction of law, he was in a position to do much good or great evil, and he chose the latter. "He was the trusted officer on the quarter-deck, in a storm, and by his judgment might save the vessel." He refused to fulfill that solemn trust, refused to do his duty, and thus gave rise to bitter and fearful trials. He placed himself in open rebellion to his own authority, denied the validity of the whole code of territorial laws, and so demeaned himself in inconsistency and mischief, that his removal by the President became a matter of necessity.

Before ex-Governor Reeder left Kansas, he caused a notice to be served on General Whitfield, "that he should *contest* his right to a seat" in this Congress as the territorial Delegate. But, says the gentleman from Ohio, Reeder "is not a contestant at all;" he has only come here to claim a seat for himself, by virtue of an election held at the "Big Springs," in Kansas, on the 9th of October, 1855. The 1st of October was the day prescribed by law for that purpose, and, in conformity to that law, an election for Delegate was held, and Whitfield elected *without* opposition. Sir, the gentleman from Ohio well asks, if any man is to be told that the people of Kansas assembled on the first day of October last and cast their votes for the sitting Delegate, and then went through the farce, only eight days after, of again casting their votes for his opponent? No man, sir, (says he,) can be made to believe that. No, sir, no man *does* believe it. But many thousands believe, sir, that a *sham* election was held on the 9th of October, not only without color of law, but in *direct violation of it*; and that at *such* an election Mr. Reeder got the votes of the emigrant aid society men. It does not matter how many, for ten thousand could not give validity to so disorganizing and lawless a proceeding. "In one or the other of these elections," says the gentleman from Ohio, "the organic law of the Territory was wantonly trampled on and disregarded;" and there is no doubt of it.

For what purpose, sir, have the majority of the Committee of Elections asked authority of this House to send to Kansas for persons and papers? It is, says the gentleman from Ohio, whether or

not General Whitfield was chosen by the people of Kansas, or by an invading and conquering army. It is, says he again, to ascertain if the sitting Delegate is here without the popular consent, and in violation of law by lawless invaders. It is to discover "whether he is here by the decision of the sword, and not of the ballot." To solve these mysteries, the committee have resolved to ask for a plentitude of power, and if by their report, says the gentleman, no "probable case" is made out, then he admits the power "ought not to be conferred." The legality of Whitfield's election is here made the basis of the report of the majority of the committee, but the minority aver, and I think correctly, that the power to send for persons and papers is designed to operate in a very different manner; and that it is to test the validity of the Territorial Legislature, and the laws passed by it, that we are to give this committee what they have asked for. If the question involved only the rights of General Whitfield or Governor Reeder to a seat in this body, it would be of very little importance to the public. But it extends very far beyond this; even to the existence or non-existence of the Kansas Legislature and her laws. General Whitfield claims to have been elected under the authority of that body. Governor Reeder claims to have been elected under the authority of a volunteer convention held at Topeka in defiance of the Legislature and its laws. If the Legislature was not a legal body, its acts are clearly void, and among them the law for the election of a Delegate to Congress, and also the election itself. If, on the other hand, that Legislature was a legal body, then its acts are binding upon the people of the Territory, including the act for the election of their Delegate; and consequently the election of General Whitfield can only be successfully combated by showing that some other person received a greater number of legal votes at the election so appointed; and I apprehend neither Governor Reeder nor anybody else will undertake to show any such thing, for it is an impossibility. That the Legislature was a legal body, the present contestant, (for he calls himself such,) Governor Reeder, practically admitted, in the most solemn manner, under circumstances much less likely to prejudice his judgment than those which now surround him, by giving to the majority of members certificates of election, and subsequently by sending messages to them as the legislative body. The Nebraska-Kansas law, made it his duty, as Governor of the Territory, to declare "the persons having the highest number of legal votes in each election district to be duly elected." This, *ex necessitate*, included the duty of determining *who*, in each of the districts, had the highest number of legal votes. And he, Governor Reeder, did so determine it in a majority of the districts, and declared the result as I have before stated. He now comes forward, and virtually, if not modestly, asks this House to annul his own acts, both of omission and commission! As the official agent of Congress, he assisted in creating and giving validity to the Legislature of the Territory, and then recognized it by repeated acts of acknowledgment; but now,

now, sir, in the face of all this, he claims that it was no Legislature at all, and leaves us to render a verdict upon his conduct, as either in violation of his own sanctions of territorial law, or utterly inexcusable as a dereliction of duty. I believe, sir, it was one or the other. His official acts, as Governor of Kansas, were, in effect, the acts of the national Government. His sanction of the Kansas Legislature was, in effect, its sanction by Congress and the Executive. The enactments of that Legislature have been, by the United States judges within the Territory, pronounced, as a whole, constitutionally passed. The President of the United States has issued his proclamation to the effect that he recognizes them as the laws of the Territory until repealed, and the authorities appointed under the Nebraska law as the government of the Territory until regularly superseded. Under these circumstances, for Governor Reeder, or a committee of Congress, to pretend that the Legislature of Kansas was not a Legislature, and that its enactments are not, and never were, laws, is, in my judgment, sir, but little less than a ridiculous farce. It may be competent, sir, for Congress (not the House of Representatives) to annul any or all the laws passed by the Kansas Legislature; but of what avail will this be for Governor Reeder in reference to what he now claims? If such an annulment were now effected, it would only prove, by the strongest implication, that they had been in full force until annulled, and that, as a consequence, his claim to sit, as the Delegate, is without the slightest foundation. So, if the Legislature of Kansas was a legal body, and its enactments valid, then the convention at Topeka, and the election of territorial officers under its auspices, was a base and shameless usurpation, and all attempts to support it by force neither more or less than treason.

Mr. Speaker, in the remarks which I have presented to the notice of the House, it is apparent that I have not presumed to settle points of law, or indeed to engage at all in a legal argument, as it may or may not be applicable to this Kansas controversy. Other gentlemen have done this with abundant clearness and force; and especially to my honorable friend from Maryland do I feel indebted for satisfying my mind upon that branch of the subject. I address myself to the House under a deep sense of my inability to do justice to the topic of discussion as we have had it reviewed, and quite convinced that I have fallen far short of giving expression to the fullness of my thoughts, my feelings, and my convictions. Let it be remembered, sir, that I am almost alone, in the large delegation from the State of New York, in opposing the very spirit and letter of the resolution introduced by the honorable gentleman from Pennsylvania, [Mr. HICKMAN,] and that by no vote of mine shall there be aid and comfort given to this new species of representative inquisition. To my mind, no case has been presented calling for any such grant of intermeddling authority. Nobody complains but he who was once Governor of Kansas, and especially charged with the care and protection of her infant

settlements. By and through him has there come over that far-off Territory the dark shadow of evil and the almost calamitous issue of civil war. False to himself and the high dignity of his official position, he planted the seeds of discord, anarchy, and confusion, but was not permitted to stay to reap the fruit. Removed from his office, chagrined, mortified, and vexed, he moodily determines on revenge; but not the revenge of the noble-minded and generous heart; rather call it the studied effort of a deep design, born and nurtured in the dark corners of the mind, and here exposed to the full light of open day.

Mr. Speaker, it has become a familiar maxim, and it is full of truth and meaning, that "coming events cast their shadows before." The times are full of alarming omens, and the political lags of the day are fast hastening us into startling contingencies.* Not content with countless blessings in the most enlightened country on the face of the earth, not satisfied with privileges unexampled and immunities of a greater latitude than any people ever enjoyed, the wisdom of the children of the present day has become greater than that of the fathers of the Republic; and now they ask for the reasons for the faith that was in them. Sad indeed, sir, is the thought that our great constitutional expounders have passed away; and no longer do we hear their warning voices, though, being dead, they yet speak in silent whis-

pers to our very hearts. Let them be heard and heeded, for the admonition comes to us from the graves of the illustrious exemplars of departed greatness.

Our hopes and fears may well start up alarmed at all the solemn mockeries of legislation, both State and National, now forced upon the country by the political pigmies whom chance has brought to the surface in the seething cauldron of party zeal. And where are we to look for safety—upon whom call for aid when the hour of trial comes? Where but to the American people, and to them we must appeal. Could they *know the truth*, this Kansas question had never been agitated, or the resolution presented here which is founded solely upon the unsustained word of a single man. I do not believe, sir, that a solitary member of this body desires to "stifle inquiry" or suppress investigation where it is proper and right. But, sir, I am of an opinion that the committee ask for too much, and, therefore, by my vote will I refuse to sanction their extraordinary request. I would suppress agitation and the falsehoods upon which it feeds, and thus destroy the vocation of our modern political charlatans, and their voracious appetite for lying—under wonderful *mistakes*.

I thank the House for its patient hearing, and only regret that I have been unable to render the subject the full merit of the justice it deserves.



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